

AN ACT

relating to the regulation of the retention, storage, transportation, disposal, processing, and reuse of used or scrap tires; providing a civil penalty; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 361.112, Health and Safety Code, is amended to read as follows:

Sec. 361.112. STORAGE [~~, TRANSPORTATION,~~] AND DISPOSAL OF USED OR SCRAP TIRES; CERTAIN REUSE OF SCRAP TIRES.

SECTION 2. Section 361.112, Health and Safety Code, is amended by adding Subsections (n) and (o) to read as follows:

(n) A used or scrap tire generator, including a tire dealer, junkyard, or fleet operator, who stores used or scrap tires outdoors on its business premises shall store the used or scrap tires in a locked, secured, or contained manner that protects the tires from theft.

(o) The commission shall adopt rules to require a person who uses more than 1,000 used or scrap tires in a construction project to obtain approval from the commission before the use of the tires in the project. In evaluating a project for approval under rules adopted under this section, the commission shall consider potential effects on human health and the environment.

SECTION 3. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Sections 361.1121 and 361.1122 to read as

1 follows:

2 Sec. 361.1121. USED OR SCRAP TIRE GENERATORS. (a) In this  
3 section:

4 (1) "Generator" means a fleet operator, an automotive  
5 dismantler, a tire recapper or retreader, or a retailer,  
6 wholesaler, or manufacturer of whole new or used tires. The term  
7 does not include a scrap tire energy recovery facility or a scrap  
8 tire recycling facility.

9 (2) "Retailer" means a person who is engaged in the  
10 business of selling or otherwise placing tires in the stream of  
11 commerce for use on a vehicle, trailer, or piece of equipment.

12 (3) "Scrap tire" has the meaning assigned by Section  
13 361.112. The term does not include a tire:

14 (A) in or on a vehicle that:

15 (i) has been crushed; or

16 (ii) is being transported to a registered  
17 metal recycling entity or a licensed used automotive parts  
18 recycler; or

19 (B) that is mounted on a metal wheel that is  
20 intended to be recycled.

21 (4) "Used tire" means a tire that:

22 (A) has been used as a tire on a vehicle, trailer,  
23 or piece of equipment;

24 (B) has tire tread at least one-sixteenth inch  
25 deep;

26 (C) can still be used for its original intended  
27 purpose; and

1           (D) meets the visual and tread depth requirements  
2 for used tires established by the Department of Public Safety.

3           (b) A customer may retain a scrap or used tire removed from  
4 the customer's vehicle during the purchase of a tire. A retailer  
5 whose customer retains a scrap tire shall keep a record of the  
6 customer's retention of the tire in accordance with commission  
7 rules at least until the third anniversary of the date the customer  
8 retained the tire.

9           (c) A retailer who takes possession of a scrap tire from a  
10 customer during a transaction described by Subsection (b) shall  
11 store or dispose of the scrap tire according to local and state  
12 laws, including Section [361.112](#).

13           (d) A retailer shall post a sign in a location readily  
14 visible to the customer that specifies the requirements for the  
15 disposal of scrap and used tires.

16           (e) The commission shall develop the language and  
17 specifications for the sign described by Subsection (d) and make  
18 the language and specifications available on the commission's  
19 Internet website.

20           (f) A generator may contract for the transportation of used  
21 or scrap tires only with a transporter who:

22                   (1) is registered as described by Section [361.1122\(b\)](#);  
23 and

24                   (2) has filed evidence of financial assurance  
25 according to Sections [361.1122\(d\)](#) and [\(e\)](#).

26           (g) A generator who contracts for the transportation of used  
27 or scrap tires with a transporter the generator knows to be

1 unregistered is:

2 (1) jointly and severally liable for any civil penalty  
3 imposed on the transporter under Subchapter D, Chapter 7, Water  
4 Code, for the illegal disposal of the tires; and

5 (2) criminally responsible, under Chapter 7, Penal  
6 Code, for an offense involving the tires under Section 365.012 of  
7 this code committed by the transporter.

8 (h) Notwithstanding Sections 7.102 and 7.103, Water Code,  
9 the amount of a civil penalty for a violation of this section may  
10 not be less than \$500 a day for each violation. A separate penalty  
11 may be imposed for each day a violation occurs.

12 Sec. 361.1122. USED OR SCRAP TIRE TRANSPORTERS AND CERTAIN  
13 TIRE PROCESSORS; MANIFEST REQUIREMENT. (a) In this section:

14 (1) "Scrap tire" and "used tire" have the meanings  
15 assigned by Section 361.1121.

16 (2) "Transporter" means a person who collects used or  
17 scrap tires from another person for the purpose of removal to a used  
18 tire dealer, scrap tire processor, end user, or disposal facility.

19 (b) Except as provided by Subsection (c), a person shall  
20 register annually with the commission if the person is:

21 (1) a transporter; or

22 (2) a tire processor that is not required to register  
23 as a storage site under Section 361.112.

24 (c) The following persons are not required to register under  
25 this section:

26 (1) a person who ships used or defective tires back to  
27 the manufacturer or the manufacturer's representative for

1 adjustment, provided that the person retains, until the third  
2 anniversary of the shipment date, written records of the shipments  
3 indicating the date of shipment, the destination, and the number of  
4 tires in each shipment and makes those records available to the  
5 commission on request;

6 (2) an on-site sewage facility installer who is  
7 registered with the commission and who transports used or scrap  
8 tires or tire pieces for construction of an on-site sewage disposal  
9 system, provided that the installer complies with the commission's  
10 manifest and recordkeeping requirements;

11 (3) a retreader who hauls tires from customers for the  
12 purpose of retreading the tires or who returns tires to customers  
13 after retreading or recapping, provided that the retreader does not  
14 haul tires to an authorized facility for used or scrap tire  
15 collection;

16 (4) a person who owns or operates a truck for municipal  
17 solid waste collection or commercial route collection and handles  
18 incidental loads of used or scrap tires or tire pieces as part of  
19 normal household or commercial collection activities;

20 (5) a municipality, county, or other governmental  
21 entity that owns or operates a transport vehicle used to transport  
22 used or scrap tires to an authorized facility or to a facility used  
23 by a governmental entity to collect used or scrap tires, provided  
24 that each load of used or scrap tires is manifested as required by  
25 the commission;

26 (6) a generator, as that term is defined in Section  
27 361.1121, transporting the generator's used or scrap tires:

1           (A) between business locations owned or  
2 controlled by the generator; or

3           (B) to a facility authorized by the commission to  
4 receive used or scrap tires;

5           (7) a person transporting five or fewer used or scrap  
6 tires; and

7           (8) a person exempt from registration requirements  
8 under commission rules.

9           (d) A transporter or tire processor who is required to  
10 register with the commission shall provide financial assurance by  
11 filing with the commission:

12           (1) a surety bond obtained from a surety company  
13 authorized to transact business in this state;

14           (2) evidence of an established trust account; or

15           (3) an irrevocable letter of credit.

16           (e) The bond, trust account, or irrevocable letter of credit  
17 described by Subsection (d) must be in favor of the state and:

18           (1) for a transporter, in an amount of \$25,000 or more;  
19 and

20           (2) for a tire processor, in an amount adequate to  
21 ensure proper cleanup and closure of the site.

22           (f) Money that the commission receives from a bond, trust  
23 account, or irrevocable letter of credit obtained by a transporter  
24 to meet the requirements of Subsections (d) and (e) must be used for  
25 the cleanup of unauthorized tire sites where the transporter has  
26 delivered tires.

27           (g) The commission shall require a person who transports

1 used or scrap tires to maintain records and use a manifest or other  
2 appropriate system to assure that tires are transported to a  
3 storage site that is registered or to a site or facility authorized  
4 by the commission. A political subdivision, state agency, or a  
5 person who contracts with a political subdivision or state agency  
6 is not required to comply with this subsection regarding the  
7 transportation of used or scrap tires directly from:

8 (1) a roadway maintained by the political subdivision  
9 or state agency; or

10 (2) an easement maintained by the political  
11 subdivision or state agency that is adjacent to a roadway.

12 (h) The commission shall require a transporter to submit to  
13 the commission in an electronic format an annual report on the  
14 records maintained by the transporter under this subsection. A  
15 transporter who fails to submit an annual report under this  
16 subsection is not eligible to renew the transporter's registration.

17 (i) The commission shall annually issue a registration  
18 insignia to each transporter. The transporter shall display the  
19 insignia on each vehicle used to transport tires under the  
20 registration. The insignia expires annually on a date specified by  
21 the commission. The commission may adopt rules for issuing  
22 duplicate and multiple insignia.

23 SECTION 4. Subchapter E, Chapter 7, Water Code, is amended  
24 by adding Sections 7.1855 and 7.1856 to read as follows:

25 Sec. 7.1855. RECKLESS VIOLATIONS RELATING TO USED OR SCRAP  
26 TIRES. (a) A person commits an offense if the person recklessly  
27 violates:

1           (1) Section 361.112, 361.1121, or 361.1122, Health and  
2 Safety Code; or

3           (2) a rule adopted under or the terms of an order,  
4 permit, or exception granted or issued under Chapter 361, Health  
5 and Safety Code, relating to used or scrap tires.

6           (b) An offense under this section is punishable for an  
7 individual under Section 7.187(a)(1)(B) or 7.187(a)(2)(D) or both.

8           (c) An offense under this section is punishable for a person  
9 other than an individual under Section 7.187(a)(1)(C).

10          Sec. 7.1856. INTENTIONAL OR KNOWING VIOLATIONS RELATING TO  
11 USED OR SCRAP TIRES. (a) A person commits an offense if the person  
12 intentionally or knowingly violates:

13           (1) Section 361.112, 361.1121, or 361.1122, Health and  
14 Safety Code; or

15           (2) a rule adopted under or the terms of an order,  
16 permit, or exception granted or issued under Chapter 361, Health  
17 and Safety Code, relating to used or scrap tires.

18           (b) An offense under this section is punishable for an  
19 individual under Section 7.187(a)(1)(C) or Section 7.187(a)(2)(E)  
20 or both.

21           (c) An offense under this section is punishable for a person  
22 other than an individual under Section 7.187(a)(1)(D).

23          SECTION 5. Section 7.303(a), Water Code, is amended to read  
24 as follows:

25           (a) This section applies to a license, certificate, or  
26 registration issued:

27           (1) by the commission under:

- 1 (A) Section 26.0301;  
2 (B) Chapter 37;  
3 (C) Section 361.0861, 361.092, [~~or~~] 361.112, or  
4 361.1122, Health and Safety Code;  
5 (D) Chapter 366, 371, or 401, Health and Safety  
6 Code; or  
7 (E) Chapter 1903, Occupations Code;  
8 (2) by a county under Subchapter E, Chapter 361,  
9 Health and Safety Code; or  
10 (3) under a rule adopted under any of those  
11 provisions.

12 SECTION 6. Sections 361.112(g) and (k), Health and Safety  
13 Code, are repealed.

14 SECTION 7. Not later than March 1, 2018, the Texas  
15 Commission on Environmental Quality shall adopt rules necessary to  
16 implement the changes in law made by this Act.

17 SECTION 8. Notwithstanding Section 361.1122, Health and  
18 Safety Code, as added by this Act, a person is not required to  
19 register under that section until September 1, 2018.

20 SECTION 9. This Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 570 passed the Senate on April 4, 2017, by the following vote: Yeas 20, Nays 11; and that the Senate concurred in House amendments on May 25, 2017, by the following vote: Yeas 20, Nays 11.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 570 passed the House, with amendments, on May 23, 2017, by the following vote: Yeas 114, Nays 30, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor